

why he did not do so if he designed it. The more reasonable presumption is, that seeing his sons-in-laws had failed in their business and become insolvent, he was not disposed to diminish the provision made for his daughters by pressing this charge against them, and this presumption is strengthened by the fact, that after the execution of his will, he paid the sum of \$3400 for a house which he gave to the complainant.

I am, therefore, of opinion, that the complainant is not entitled to recover from the defendants any thing on account of payments made by the testator, as security for Robert and John S. Hollins, mentioned in the 15th clause of the will.

The 4th item of claim set up by the complainant, is founded upon the payment by him of a large some of money in discharge of a decree obtained by *John S. Gittings et al* in 1841, under the circumstances stated in the proceedings.

The decree was rendered in 1841, and affirmed on appeal in 1845. By it, Mr. Gittings and others, were held to be entitled to a parcel of property which had been devised by the testator to the two sons of his said two daughters, valued at \$11,000, and the defendants in that suit, were decreed to pay a large sum of money on account of the rents and profits of said property. And the facts agreed on, show, that after the decree had been affirmed, and pending subsequent proceedings to make the personal and leasehold property bequeathed by the testator, and then in the possession of the complainant, responsible for the money so due, the complainant, on the 18th of February, 1847, paid the balance due, with costs, and the bill in this case seeks to make the defendants refund to the complainant a portion of this payment.

The proceedings further show, that in the year 1844, a partition was made of certain portions of property which had been conveyed by Margart Dugan and Sarah Moore, to Frederick James Dugan and William McKim, trustee, and by the said Margaret Dugan to the same parties. The property was divided into three equal parts, whereof one-third was assigned to the said Frederick James Dugan, one-third to William M'Kim, trustee of Rebecca Hollins, and the remaining one-third to the